

Frequently Asked Questions

Vietnam Era Veterans' Readjustment Assistance Act (Section 4212)

Notice of Proposed Rulemaking (NPRM)

The Office of Federal Contract Compliance Programs (OFCCP) issued a Notice of Proposed Rulemaking (NPRM) to inform the public about proposed changes to the affirmative action requirements of 41 CFR parts 60-250 and 60-300. These regulations implement Section 4212 of the Vietnam Era Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (Section 4212). The NPRM also invites the public to comment on the proposed changes.

The Section 4212 NPRM is published in the April 26, 2011 edition of the Federal Register. All comments must be received on or before June 27, 2011.

Important information about the NPRM is highlighted below.

GENERAL INFORMATION

1. What is a Notice of Proposed Rulemaking (NPRM)?

An NPRM is the government's way of providing the public formal notice that it is proposing a new regulation or modifying an existing regulation.

2. How do I submit comments to OFCCP on the Section 4212 NPRM?

You may submit comments by any of the following methods:

- Electronically, by accessing the Federal eRulemaking portal called regulations.gov at: <http://www.regulations.gov>. Follow the instructions for submitting comments using the RIN number 1250-AA00.
- Mail or hand deliver/courier comments to: Debra A. Carr, Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, Room C-3325, 200 Constitution Avenue, N.W., Washington, D.C. 20210.
- Facsimile (for comments of 6 pages or less) using telephone number (202) 693-1304 (this is not a toll-free number).

3. How will I know whether OFCCP received my comments?

OFCCP does not generally acknowledge receiving comments. You may, however, request confirmation that a mailed, hand delivered or faxed submission was received by OFCCP by calling (202) 693-0103 (voice) or (202) 693-1337 (TTY) (these are not toll-free numbers). All comments, whether mailed, hand delivered, faxed or submitted through the eRulemaking portal, are posted on the portal's web site. You may go to www.regulations.gov to view your

posted comments. Comments OFCCP receives by mail are typically posted on the web portal within 2-3 business days after they are received.

4. What does OFCCP do with the comments it receives?

OFCCP reviews and analyzes all comments it receives. Your comments assist us as we develop the Final Rule on Section 4212. By issuing a Final Rule, which is the last step in the rulemaking process, OFCCP makes permanent changes to its Section 4212 regulations.

5. Can I review comments submitted by others?

Yes. Anyone can review the comments we receive on the NPRM by going to www.regulations.gov. The comments are also available for public inspection during normal business hours at OFCCP's Washington, D.C. office at 200 Constitution Avenue, N.W., Washington, D.C. 20210, Room C-3325. Readers, print magnifiers and other appropriate aids are available to people needing assistance.

6. Is there a deadline for submitting comments?

Yes, the public comment period is 60 days. Therefore, OFCCP must receive your comments on or before June 27, 2011.

7. Who should I contact for additional information?

For additional information, call OFCCP's Help Desk Number: (202)-693-1096 or (202)-693-1337 (TTY) (these are not toll-free numbers).

NPRM HIGHLIGHTS

1. Why does OFCCP want to revise its Section 4212 (often referred to as "VEVRAA") regulations?

The framework articulating contractors' Section 4212 responsibilities has not changed since the implementing regulations were first published in 1976. Yet today, increasing numbers of veterans are returning from duty in Iraq, Afghanistan and elsewhere around the world only to face substantial obstacles in finding employment. Strengthening our Section 4212 regulations is an important step towards addressing this problem and increasing employment opportunities for protected veterans.

2. How does the NPRM propose to amend Part 60-250?

The NPRM proposes rescinding Part 60-250 as obsolete because it only applies to Government contracts and subcontracts of \$25,000 or more entered into before December 1, 2003 and not since modified. Alternatively, in the event that the public comments indicate that contracts subject to Part 60-250 still exist, the NPRM proposes revising the substantive provisions of Part 60-250 to mirror the requirements in Part 60-300.

3. How does the NPRM propose to amend Part 60-300?

The NPRM proposes a variety of changes to the regulations in Part 60-300. For example, the NPRM proposes strengthening the affirmative action provisions by detailing mandatory actions by contractors in the areas of recruitment, employee training, recordkeeping, and the dissemination of their affirmative action policies. In addition, the NPRM proposes:

- clarifying when electronic posting of employee rights and contractor obligations is permissible and when it is required;
- updating how compliance evaluations are conducted;
- clarifying mandatory job listing requirements;
- requiring contractors establish hiring benchmarks to measure the effectiveness of its affirmative action efforts; and
- improving contractor data collection related to protected veteran referrals, applicants and hires.

We discuss some of these proposed revisions in detail in the questions below.

4. Does OFCCP recommend additional data collection responsibilities in its NPRM?

The NPRM recommends that contractors collect and maintain several measurements and comparisons related to protected veterans, including the:

- number of protected veterans referred to them by state employment services,
- number of protected veterans that applied for positions with the contractor, and
- number of protected veterans hired by the contractor.

This data gives contractors and OFCCP important information that does not currently exist. This data is important because it will help contractors evaluate and tailor their recruitment and outreach efforts, and establish the hiring benchmarks proposed in the NPRM.

5. Can OFCCP tell me more about the proposed requirement to establish hiring benchmarks?

The NPRM proposes requiring, for the first time, that contractors establish annual hiring benchmarks. These benchmarks are expressed as the percentage of total hires who are protected veterans that a contractor will seek to hire the following year. By using benchmarks, contractors have a quantifiable measure for gauging their success in recruiting and employing protected veterans.

As proposed in the NPRM, when establishing benchmarks contractors consider:

- the percentage of veterans in the civilian labor force in the State where the contractor is located, and

- the number of veterans who participated in the State’s employment service delivery system.

OFCCP will make State veteran participation information available on its website.

Contractors may also consider other factors, including the nature of the job openings and/or its location, which might tend to affect the availability of qualified protected veterans.

6. Does the NPRM propose any changes to the contractor’s obligation to invite applicants to self –identify as a protected veteran?

Yes. The NPRM proposes requiring the contractor to invite applicants to self-identify at both the pre-offer and post-offer stages of the hiring process. As proposed, prior to an offer of employment, the contractor is required to invite all applicants for employment to self-identify as a “protected veteran.” After the contractor makes an offer of employment, there is a requirement to invite the applicant to self-identify as member of one or more specific classifications of protected veterans covered under Part 60-300. These proposed changes allow the contractor to collect enhanced data regarding protected veterans. This, in turn, allows the contractor and OFCCP to identify and monitor the contractor’s employment practices with respect to protected veterans.

7. What changes does the NPRM propose to the current mandatory job listing requirement?

The NPRM proposes clarifying OFCCP’s existing mandatory job listing requirement by requiring contractors to provide job vacancy information to the appropriate employment service in the way that the employment service needs it in order to include the job in their database. Contractors, or privately run job services or exchanges acting on behalf of contractors, must also comply with this requirement in order to satisfy their job listing obligations.

The NPRM also proposes requiring contractors to inform state employment services of their status as a Federal contractor, request priority referrals of protected veterans for job openings at each location in the state, and provide the contact information for the hiring official at each location in the state. Similarly, if contractors use any outside job search companies to assist with hiring, the NPRM proposes requiring them to provide the state employment service with contact information for these companies.

8. Does the NPRM suggest changes to the recruitment of protected veterans?

Current regulations merely suggest a number of outreach and recruitment efforts that contractors can undertake to increase employment opportunities for protected veterans. In contrast, the NPRM suggests requiring contractors to engage in a minimum of three specified types of outreach and recruitment efforts. The suggested regulations also include a list of optional outreach and recruitment measures. The NPRM also suggests requiring contractors to annually review their outreach and recruitment efforts and evaluate their effectiveness.